

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

VERNON 4540 REALTY, LLC,

Debtor.

Chapter 11

Case No. 20-22919 (rdd)

CSC 4540, LLC, 45-50 VERNON LP, JSMB
4540 LLC, and JSMB 4540 MM LLC,

Plaintiffs,

Adv. Proc. No. 20-07020 (rdd)

v.

VERNON 4540 REALTY, LLC and BRENT
CARRIER,

Defendants.

**ORDER DIRECTING BRENT CARRIER TO EXECUTE
AND SUBMIT THE REFUND AUTHORIZATION TO
THE NEW YORK STATE DEPARTMENT OF
TAXATION AND FINANCE FOR DEPOSIT INTO AN
ESCROW ACCOUNT HELD BY EXAMINER'S
COUNSEL PENDING FURTHER COURT ORDER**

Upon the Report¹ of Angela M. Orlandella dated October 28, 2021 [Main Case Docket No. 100-103 and AP#1 Docket No. 118-122] filed pursuant to the Order Granting Plaintiffs' Motion for Summary Judgment and Directing Appointment of Examiner with Powers Pursuant to 11 U.S.C. § 1104(c) dated March 29, 2021 [AP#1 Docket No. 60]; and upon the Order Denying Plaintiffs' Motion for Contempt and Sanctions Against Defendant Brent Carrier and Directing Compliance With the Court's Order Granting Plaintiffs' Motion for Summary Judgment and Directing Appointment of an Examiner with Powers

¹ Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Report [Main Case Docket No. 100 and AP#1 Docket No. 118].

Pursuant to 11 U.S.C. § 1104(c) dated May 4, 2021 [AP#1 Docket No. 83]; and upon the status conference held on November 4, 2021; and upon the Response of MGRU LLC to the Examiner's Report dated November 17, 2021 ("the MGRU Response") [Main Case Docket No. 108]; and upon the Defendant Brent Carrier's Response to Examiner Report and November 12, 2021 Demand for Execution of Refund Authorization dated November 18, 2021 (the "Carrier Response") [AP#1 Docket No. 126]; and upon the Examiner's Omnibus Reply to the MGRU and Carrier Responses (the "Examiner Omnibus Reply") [Main Case Docket No. 111 and AP#1 Docket No. 129]; and upon the Affirmation in Response to Examiner's Reply to Response of MGRU LLC to the Examiner's Report (the "MGRU Affirmation," and, together with the MGRU Response, the "MGRU Responses") [Main Case Docket No. 123]; and the service and notice of the Examiner Omnibus Reply having been due and sufficient, and no further notice of the Examiner's request for the relief granted in this Order being required; and the Court having jurisdiction to consider the Report, the Carrier Response, the MGRU Responses, and the Omnibus Reply and the relief requested therein and to determine same as a core proceeding, pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having held a hearing on the Report and the Examiner's request for the relief granted herein on December 17, 2021 (the "Hearing"); and upon the record of the Hearing and the status conference on November 4, 2021 and all of the proceedings held in this adversary proceeding and the bankruptcy case; and after due deliberation and for the reasons stated by the Court at the Hearing, good and sufficient cause appearing, it is hereby

ORDERED that the Carrier Response is overruled; and it is further

ORDERED that the MGRU Responses remain unaffected by this Order insofar as they do not impact the calculation and allocation of the Tax Refund from which funds Debtor Vernon 4540 Realty LLC's creditors holding allowed claims will be paid; and it is further

ORDERED that Defendant Brent Carrier is directed to execute the Refund Authorization annexed to the Examiner Omnibus Reply as Exhibit A, and submit said authorization to the DTF for processing of the Tax Refund, in each case within three (3) days of the entry of this Order, with a copy emailed on such date to Examiner's counsel, Janice Grubin at jgrubin@barclaydamon.com. Mr. Carrier's failure to comply with this decretal paragraph shall subject him to sanctions, including, without limitation, a coercive sanction of \$1,000 a day until such actions are taken; and it is further

ORDERED that counsel for the Examiner shall email a copy of this Order to Defendant Brent Carrier on or before the close of business on January 6, 2022; and it is further

ORDERED that upon receipt of the Tax Refund, the Examiner shall deposit the funds into an interest-bearing account held by Barclay Damon LLP for the benefit of Debtor's estate until further Order of this Court and will file on a monthly basis the deposit statement; and it is further

ORDERED, that the Court shall retain jurisdiction over all issues arising from or relating to an interpretation or implementation of this Order.

Dated: January 5, 2022
White Plains, New York

/s/Robert D. Drain

THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE